

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

WHITNEY BENDERMAN,)	
)	
Plaintiff,)	
)	Cause No.: 4:18-cv-864
v.)	
)	Circuit Court of Jackson County
MICHAEL DRENNON and)	Cause No: 1816-CV19387
HOUSE OF ROCKS, INC.,)	
)	JURY TRIAL DEMANDED
Defendants.)	

DEFENDANT MICHAEL DRENNON'S NOTICE OF REMOVAL

COMES NOW Defendant, MICHAEL DRENNON, by and through his undersigned counsel, and hereby file this Notice of Removal of the above captioned action, originally filed in the Circuit Court of Jackson County, Kansas City, Missouri, to the United States District Court for the Western District of Missouri, Western Division, pursuant to 28 U.S.C. § 1441, and in support thereof respectfully states as follows:

1. Plaintiff filed her Petition in the Circuit Court of Jackson County, Kansas City, Missouri on July 25, 2018. Plaintiff brings this action against Defendants alleging negligence resulting in injuries and damages to Plaintiff arising from a motor vehicle accident occurring on August 15, 2014 in Jackson County, Missouri. Exhibit A First Amended Petition; A complete copy of the State Court file, Cause Number 1816-CV19387, is attached hereto as Exhibit B.
2. Plaintiff alleged Defendant Michael Drennon is a resident of the State of Missouri, however, Defendant Michael Drennon is a resident of Kansas. Exhibit C, Affidavit of Defendant Michael Drennon.

2. The controversy in this lawsuit is therefore wholly between citizens of different states:

- (a) Plaintiff Whitney Benderman, at the time this action commenced and ever since, is a resident of the State of Missouri. (*See Exhibit A, First Amended Petition*)
- (b) Defendant House of Rocks, Inc. is a Kansas Corporation organized and existing under the laws of the State of Kansas, with its principle place of business and residence in the State of Kansas. Exhibit D, Secretary of State Filings for the State of Kansas.
- (c) Defendant Michael Drennon is a resident of the State of Kansas. (Exhibit C, Affidavit of Michael Drennon)

3. For purposes of removal based on diversity of citizenship, Defendants House of Rocks, Inc. and Michael Drennon are not citizens of the State of Missouri. 28 U.S.C. § 1332(c)(1); *see also Hertz v. Friend*, 559 U.S. 77, 92-93 (2010) (corporation is a citizen of state of incorporation and state in which its principal place of business is located).

4. The amount in controversy, exclusive of interest and costs, exceeds or is likely to exceed the sum of Seventy-Five Thousand Dollars (\$75,000.00). Plaintiff, in her Petition, alleges severe, permanent and disabling physical injury to Plaintiff's neck and back, requiring significant pain management medication, injections, testing, therapy, and surgery, resulting in substantial past and future expense for her medical care and treatment. Plaintiff further alleges emotional distress, loss of enjoyment of life, and past and future lost wages. (*See Exhibit A, First Amended Petition*)

5. Further, prior to filing suit, Plaintiff made a demand in excess of \$100,000.00 to resolve the case.

6. Plaintiff requested and was granted leave of Court on October 22, 2018 to file her Amended Petition adding Michael Drennon as a Defendant. (Exhibit E, October 22, 2018 Order)

7. Counsel for Defendant Michael Drennon accepted service of the Amended Petition on October 22, 2018. (Exhibit F, email from Defendant's counsel to Plaintiff's counsel and response on service date).

8. Defendants' Notice of Removal has been timely filed pursuant to 28 U.S.C. §1446, as Defendants House of Rocks and Michael Drennon were served with the Amended Petition on October 22, 2018.

9. Because complete diversity exists between Plaintiff and Defendants, and because the amount in controversy in this action exceeds the sum of \$75,000.00, removal to this Court is proper under 28 U.S.C. §§ 1332, 1441 and 1446.

10. Defendant House of Rocks joins in this removal and its consent to the same is filed herewith.

11. Defendant has, simultaneously with the filing of this Notice of Removal, given written notice of its filing to Plaintiff and to the Circuit Court of Jackson County, Kansas City, Missouri.

12. Defendant demands a trial by jury on all issues so triable.

WHEREFORE Defendant, MICHAEL DRENNON respectfully requests that the above-referenced state court action be removed from the Circuit Court of Jackson County, Kansas City, Missouri to this Court, and that this Honorable Court accept jurisdiction of the case, and for any and other further relief this Court deems just and proper.

Respectfully Submitted,

BROWN & JAMES, P.C.

/s/ Jackie M. Kinder

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*Attorneys for Defendants,
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Michael Drennon*

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served via United States mail, postage fully prepaid, and via the Court's electronic filing system, this 30th day of October, 2018, on the counsel of record listed below.

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/s/ Jackie M. Kinder

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